

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION

BERNADETTE CUNNINGHAM and )  
ROSALIND JOHNSON, Individually and )  
as Administratrix of the Estate of )  
NEKEYA MAGSBY, Deceased, )

Plaintiffs, )

VS. )

No. 04-1144-T/An

MICHELIN NORTH AMERICA, INC., )  
and MICHELIN AMERICAN )  
RESEARCH & DEVELOPMENT CORP., )

Defendants. )

---

ORDER HOLDING MOTION IN ABEYANCE

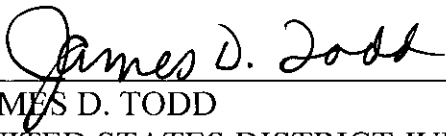

---

On October 21, 2005, the Michelin defendants filed a motion for summary judgment as to the plaintiffs' claims for punitive damages. Plaintiffs filed a response to the motion on November 18, 2005. In that response, plaintiffs state that they filed a motion to compel discovery from the defendants on May 16, 2005. It is asserted, pursuant to Fed. R. Civ. P. 56(f), that the discovery sought is necessary in order to fully respond to the motion for summary judgment on punitive damages. Therefore, plaintiffs request that the motion for summary judgment as to punitive damages be held in abeyance pending resolution of the motion to compel and the completion of any discovery allowed.

As it appears that the discovery sought by plaintiffs, if allowed, may be pertinent to the issue of whether the defendants engaged in conduct warranting an award of punitive damages, the plaintiffs' request is granted. The motion for summary judgment on punitive damages is hereby held in abeyance pending the completion of discovery.

The current discovery deadline is January 23, 2006. Accordingly, plaintiffs are hereby allowed until February 23, 2006 to respond to the defendants' motion for summary judgment as to the claims of punitive damages. If the discovery deadline is extended, plaintiffs may seek an additional extension of time to respond, if necessary.

IT IS SO ORDERED.

  
\_\_\_\_\_  
JAMES D. TODD  
UNITED STATES DISTRICT JUDGE  
  
\_\_\_\_\_  
DATE



## Notice of Distribution

This notice confirms a copy of the document docketed as number 85 in case 1:04-CV-01144 was distributed by fax, mail, or direct printing on December 9, 2005 to the parties listed.

---

Robert P. Alpert  
MORRIS MANNING & MARTIN  
3343 Peachtree Rd., NE  
Atlanta, GA 30326--104

Jeffrey S. Rosenblum  
ROSENBLUM & REISMAN  
80 Monroe Ave.  
Ste. 560  
Memphis, TN 38103

Robert Redding  
ARMSTRONG ALLEN, PLLC  
464 North Parkway  
Ste. A  
Jackson, TN 38305

John R. Tarpley  
LEWIS KING KRIEG & WALDROP, PC  
201 4th Avenue North  
Ste. 1500  
Nashville, TN 37219

A. M. Quattlebaum  
NELSON MULLINS RILEY & SCARBOROUGH, L.L.P.  
104 South Main St., Ste. 900  
P.O. Box 10084  
Greenville, SC 29601

Joe S. Moore  
Circuit Court Clerk  
Haywood County Cthse.  
Brownsville, TN 38012

Jonathan O. Steen  
ARMSTRONG ALLEN, PLLC  
464 North Parkway  
Ste. A  
Jackson, TN 38305

Susan J. Warren  
MORRIS MANNING & MARTIN  
3343 Peachtree Rd., NE  
Atlanta, GA 30326--104

Russell Marlin  
EUBANKS & ASSOCIATES  
708 W. Second St.  
Little Rock, AR 72201

Gary Holt  
EUBANKS & ASSOCIATES  
708 W. Second St.  
Little Rock, AR 72201

Elizabeth C. Helm  
MORRIS MANNING & MARTIN  
3343 Peachtree Rd., NE  
Atlanta, GA 30326--104

David A. Changas  
LEWIS KING KRIEG & WALDROP, PC- Nashville  
201 4th Avenue North  
Ste. 1500, P.O. Box 198615  
Nashville, TN 37219

T. Michael Lee  
EUBANKS & ASSOCIATES  
708 W. Second St.  
Little Rock, AR 72201

Kirk A. Caraway  
ROSENBLUM & REISMAN  
80 Monroe Ave.  
Ste. 950  
Memphis, TN 38103

Honorable James Todd  
US DISTRICT COURT